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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE, Plaintiff and Respondent, v. DENNIS MARCUS CHIPLEY, Defendant and Appellant.	C058092 (Super. Ct. No. 06F008474)

Defendant Dennis Marcus Chipley and his wife Terri were tried together for cultivating marijuana (Health & Saf. Code, § 11358)[1] and possessing marijuana for sale (§ 11359). Each offered a medical marijuana defense based on the Compassionate Use Act of 1996 (CUA). (§ 11362.5.) A jury found defendant guilty of possessing marijuana for sale and not guilty of

[1] Further undesignated statutory references are to the Health & Safety Code.

cultivating marijuana.[2] The trial court suspended imposition of sentence and placed defendant on formal probation on the condition, among others, that he serve 180 days in county jail, with credit for five days. The court also ordered defendant pay a $650 fine and a $162.50 criminal laboratory analysis fee.

In 1996, voters passed the CUA, which relieves a defendant of criminal liability for possession or cultivation of marijuana if the possession or cultivation is "for the personal medical purposes . . . upon the . . . recommendation or approval of a physician." (§ 11362.5, subd. (d).) Although the CUA states that the marijuana cultivated or possessed must be for the patient's "personal medical purposes," it does not place a numeric cap on how much marijuana a patient may cultivate or possess. (§ 11362.5.)

In 2003, the Legislature enacted the Medical Marijuana Program Act (MMPA, § 11362.7 et seq.), which established numerical limits for the possession of marijuana (§ 11362.77).

Following defendant's conviction in this case, this court held that the MMPA unconstitutionally amended the CUA by "impos[ing] mandatory numerical ceilings on the amount of dried marijuana and the number of marijuana plants that can be possessed or cultivated, where the [CUA] has none." (*People v. Phomphakdy* (2008) 165 Cal.App.4th 857, 866, review granted Oct.

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[2] The jury also found defendant's wife guilty of possessing marijuana for sale and not guilty of cultivating marijuana. She is not a party to this appeal.

28, 2008, S166565 (*Phomphakdy*).) *Phomphakdy* is currently on review in the California Supreme Court.

At trial, the prosecution sought to introduce evidence of a conversation between defendant and a law enforcement officer during which they discussed the guideline amount and whether defendant was in compliance. Defendant objected, arguing the guidelines are not the law and the limits set forth therein are inconsistent with the applicable jury instructions which provide that "[t]he amount of marijuana possessed must be reasonably related to the patient's current, medical needs." (See CALCRIM Nos. 2370, 2375.) The trial court overruled the objection, but admonished the jury that what a witness says about the guidelines is "not necessarily the law. I'll instruct you to what the law is later. . . . I don't want you to think that just because [a witness] discussed some kind of guidelines with [defendant] that that in any way defines what the law is with respect to compassionate use of marijuana." Later, the trial court instructed the jury that for the CUA to apply, "[t]he amount of marijuana possessed must be reasonably related to the patient's current, medical needs." The court refused defendant's wife's request to instruct the jury that the guidelines are not the law.

Defendant appeals, contending the trial court prejudicially erred in allowing witnesses to testify about the "unconstitutional numerical guidelines" and in failing to later instruct the jury that the numerical guidelines are not the law. He also claims the trial court erred in calculating his

presentence custody credits and in failing to separately state all fines, fees, and penalties, and the statutory basis for each.

We shall conclude that defendant forfeited his claims concerning the numerical guidelines by failing to raise those claims below. Moreover, the trial court did not err in admitting the challenged testimony or in failing to later instruct the jury that the guidelines were not the law, and in any event, any alleged error was harmless. We shall remand the matter for the limited purpose of amending the probation order to (1) reflect that defendant was awarded seven (as opposed to five) days of presentence custody credits, and (2) separately state all fines, penalty assessments, and fees imposed, and the statutory basis for each. We shall affirm the judgment in all other respects.

FACTUAL AND PROCEDURAL BACKGROUND

On April 10, 2006, Detective Tracy Miller of the Redding Police Department and Officer Randy Rudd of the California Highway Patrol, both members of the Shasta Interagency Narcotic Task Force (task force), entered the Chipleys' home and observed a quart-size mason jar of marijuana near a recliner in the front room.[3] They continued to search the home and found over 12 pounds of "useable" marijuana in over 80 separate containers.

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[3] The parties stipulated that the officers had the right to enter the property.

The bulk of the marijuana was located in the master bedroom, along with two digital scales, a triple beam scale, Ziploc bags, three handguns, two of which were loaded; and numerous pay-owe sheets. There also was a surveillance camera that broadcast a picture of the front of the home to a television in the master bedroom. Nine additional firearms, two of which were loaded, were found elsewhere in the home.

In the backyard, there were nine, three-foot tall marijuana plants. In a greenhouse, there were 30 marijuana plants, ranging in size from six inches to three feet.

Medical marijuana recommendations for defendant, his wife, and a third person, whom officers were unable to locate, were posted on the garage shed.

Miller interviewed the Chipleys at the scene. Each smoked one-quarter to one-half ounce of marijuana per day. Defendant used the scales "to weigh out . . . the amount [he was] going to have for that day" and "to make sure that he was in compliance with the guidelines." When Miller told defendant he "understood the guidelines to be eight ounces of processed marijuana," defendant said he had no idea he was out of compliance. When Miller told the Chipleys that officers had found their "pay-owes," defendant said nothing, and his wife responded, "Oh."

Miller and Rudd initially intended to "bring [defendant] back into compliance," by confiscating all but eight ounces of the processed marijuana and leaving the "grow" in the backyard. They changed their minds, however, when they determined some of

the marijuana was possessed for sale. At that point, they decided "to take everything."

Miller and Rudd opined that the marijuana found in the Chipleys' home was possessed for both sale and personal use. Miller based his opinion that the marijuana was possessed for sale on the quantity, the scales, and the pay-owe sheets. Rudd based his opinion that the marijuana was possessed for sale on, among other things, the quantity, the scales, the packaging, and the pay-owe sheets.

Christopher Conrad, an expert in the cultivation and medical use of marijuana, testified for the defense. He was involved in the development of the MMPA. He explained that "at some point they decided to put in some [guidelines] for personal use," and that "[t]he original proposal was six pounds per patient and . . . two hundred square feet per garden." Those amounts were later reduced to eight ounces and six mature or 12 immature plants after the Attorney General threatened to "get the bill thrown out . . . ." There was no "scientific basis" for the reduced amounts. The eight ounce guideline is a "threshold," i.e. people who possess less than that amount are not supposed to be prosecuted or arrested. The guidelines do not determine whether someone has broken the law. "The law is already established by the *M[ow]er*[4] and *Trippet*[5] decisions, which say it's a reasonable amount for a patient."

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4 *People v. Mower* (2002) 28 Cal.4th 457.

According to Conrad, "the bud part of the plant . . . has the most medicinal benefit . . . ." He believed that 50 percent of the marijuana found in the Chipleys' home was bud, and that 6.25 pounds of bud is a reasonable amount for two people to consume in a one-year period. It is typical for people who grow their own marijuana to keep large amounts on hand because there is no way to predict how much the next crop will yield.

Conrad further opined that a person growing and processing marijuana for medical use would have scales to measure yields from his garden, to estimate how long his supply will last, to weigh the product for recipes, and to provide his doctor with an accurate estimate of how much he is using. Conrad acknowledged that pay-owe sheets are typically used in the sale of marijuana, but stated that the sheets found in defendant's home were not "overly convincing" because they did not contain the word "marijuana" on them.

DISCUSSION

I

Defendant contends the trial court erred in admitting testimony regarding the MMPA's "unconstitutional numerical guidelines" because such testimony "permitted the jury to apply the guideline amount in deciding whether [defendant's] possession was legal, instead of making its own independent determination of reasonableness" as required under the CUA.

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5 *People v. Trippet* (1997) 56 Cal.App.4th 1532.

According to defendant, the admission of the challenged testimony deprived him of his state and federal constitutional rights to a trial by jury, "to prove his reasonableness defense under the [CUA]," to a "reliable verdict," and to "due process." (Cal. Const., art. I, §§ 7, 15, 16, 24; U.S. Const., Amends. V, VI, XIV.)

As we shall explain, defendant forfeited his constitutional claims by failing to raise them below. Moreover, we conclude the trial court did not abuse its discretion in admitting the challenged testimony, and in any event, any alleged error was harmless.

The Chipleys jointly moved in limine to exclude evidence concerning "the amounts per the guidelines" on the grounds the guidelines are not the law and the limits set forth therein are inconsistent with the language of the applicable jury instructions, which provide that "[t]he amount of marijuana possessed must be reasonably related to the patient's current, medical needs." (See CALCRIM Nos. 2370, 2375.) The prosecutor responded that "[t]he agents at the scene talked with the Chipley's [*sic*] about . . . the guideline amount and whether they were in compliance . . . ." The trial court observed that "it might be that [such] evidence is admissible but that it is not a standard that the jury can use in determining whether or not the defendants are guilty" and indicated its intent to give "some sort of instruction saying this is a guideline and not the law" should such evidence come in.

At trial, the prosecutor asked Detective Miller "about a conversation [he] had with [defendant] about being in compliance." Defendant objected, noting that the prosecutor might be "get[ting] into an area we've already discussed." The court overruled the objection but admonished the jury as follows: "I think the witness is going to say something about guidelines with respect to the compassionate use of marijuana. What he says about guidelines [is] not necessarily the law. I'll instruct you to what the law is later. And I don't want you to think that just because he discussed some kind of guidelines with [defendant] that that in any way defines what the law is with respect to compassionate use of marijuana."

Thereafter, Miller testified that defendant told him that he used the scales "to make sure that he was in compliance with the guidelines" and not for selling marijuana. When Miller told defendant that he "understood the guidelines to be eight ounces of processed marijuana" and that defendant was "clearly well beyond that," defendant said he had no idea that he was out of compliance.

Later, the prosecutor asked Miller whether there were "guidelines that you followed as a [Shasta Interagency Narcotic Task Force] agent as to marijuana grows?" Defendant's wife objected on relevance grounds. The trial court overruled the objection, but admonished the jury as follows: "I want to emphasize these guidelines are not necessarily what the law is." Thereafter, Miller explained that he and Rudd initially were going to bring defendant "back into compliance," by confiscating

all but eight ounces of the processed marijuana and leaving the "grow" in the backyard.

During cross-examination, Rudd was asked about his prior experience with persons who legally grow or possess marijuana. He said he had been to several homes where marijuana was "being used legally." He had recently executed a search warrant at a home and "didn't touch a lick of their marijuana plants because they were in compliance . . . ." On re-direct, the prosecutor asked Rudd what he meant by compliance, and Rudd responded "[p]utting them with the Shasta County standards of eight ounces per person." He further explained that, like Miller, his initial plan was to "put [the Chipleys] in compliance."

The trial court instructed the jury on the compassionate use defense in pertinent part as follows: "Possession of marijuana is lawful if authorized by the Compassionate Use Act.[6] In order for the Compassionate Use Act to apply, the defense must produce evidence tending to show that his or her possession or cultivation of marijuana was for personal, medical purposes with a physician's recommendation o[r] approval. *The amount of marijuana possessed must be reasonably related to the patient's current, medical needs.*"

A. Preliminarily, we note that defendant never objected to the evidence in question on constitutional grounds. "It is 'the

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6 The trial court instructed the jury on simple possession (§ 11357, subd. (c)), a lesser offense of possession of marijuana for sale.

general rule that questions relating to the admissibility of evidence will not be reviewed on appeal in the absence of a specific and timely objection in the trial court on the ground sought to be urged on appeal.'" (*People v. Raley* (1992) 2 Cal.4th 870, 892 [where defendant objected to the admission of certain statements as inadmissible hearsay and subject to exclusion under Evidence Code section 352 in the trial court, he was precluded from raising constitutional claims on appeal]; see also *People v. Rodrigues* (1994) 8 Cal.4th 1060, 1116, fn. 20.) Here, defendant essentially objected to the challenged testimony as irrelevant and subject to exclusion under Evidence Code section 352[7]; at no point did he object on constitutional grounds. Accordingly, he is precluded from challenging the court's evidentiary ruling on those grounds on appeal.

B. In any case, the challenged testimony was properly admitted. A brief summary of the CUA and the MMPA is necessary to place defendant's claim in context.

In 1996, voters passed the CUA, which relieves a defendant of criminal liability for possessing or cultivating marijuana when the possession or cultivation is "for the personal medical purposes . . . upon . . . approval of a physician." (§ 11362.5,

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[7] We construe defendant's objection that the guidelines are not the law as asserting such evidence was irrelevant and subject to exclusion under Evidence Code section 352 because the probative value of such evidence, if any, was "substantially outweighed by the probability that its admission w[ould] . . . create [a] substantial danger of . . . confusing the issues, or of misleading the jury."

subd. (d).) The CUA does not contain any numerical limits on the amount of marijuana a qualified patient may possess. (§ 11362.5.)

In 2003, the Legislature enacted the MMPA. In doing so, it "sought to: '(1) Clarify the scope of the application of the [CUA] and facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers. [¶] (2) Promote uniform and consistent application of the [CUA] among the counties within the state. [¶] (3) Enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.'" (*People v. Urziceanu* (2005) 132 Cal.App.4th 747, 783, quoting Stats. 2003, ch. 875, § 1, subd. (b); see also *People v. Wright* (2006) 40 Cal.4th 81, 93.) The Legislature also intended "'to address additional issues that were not included within the [CUA], and that must be resolved in order to promote the fair and orderly implementation of the act.'" (*People v. Urziceanu*, *supra*, 132 Cal.App.4th at p. 783, quoting Stats. 2003, ch. 875, § 1, subd. (c); see also *People v. Wright*, *supra*, 40 Cal.4th at p. 93.)

To promote the Legislature's intent, the MMPA directs the state Department of Health Services to establish and maintain a voluntary program for the issuance of "identification cards" to "qualified patients." (§§ 11362.7, subd. (b), 11362.71, subd.

(a)(1).)[8] The primary benefit of possessing a valid identification card is that the holder is not "subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to [the MMPA]." (§ 11362.71, subd. (e).)

The MMPA establishes the following numerical limitations for possession of marijuana: "A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient." (§ 11362.77, subd. (a).) These limitations do not apply "[i]f a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs." (§ 11362.77, subd. (b).) In that case, "the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs." (§ 11362.77, subd. (b).) Moreover, "[c]ounties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a)." (§ 11362.77, subd. (c).)

In 2008, after defendant was convicted and sentenced in this case, this court held in a different case that the MMPA

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[8] A "'[q]ualified patient'" is "a person who is entitled to the protections of [the CUA], but who does not have an identification card issued pursuant to this article." (§ 11362.7, subd. (f).)

unconstitutionally amended the CUA by "impos[ing] mandatory numerical ceilings on the amount of dried marijuana and the number of marijuana plants that can be possessed or cultivated, where the [CUA] has none." (*Phomphakdy*, *supra,* 165 Cal.App.4th at p. 866, review granted Oct. 28, 2008, S166565.) The California Supreme Court is currently reviewing the issue in that case and in another (*People v. Kelly* (2008) 163 Cal.App.4th 124, review granted Aug. 13, 2008, S164830). We shall assume for purposes of this appeal that the MMPA's numerical limits constitute an unconstitutional amendment to the CUA.

Defendant essentially objected to evidence regarding the numerical guidelines as irrelevant and subject to exclusion under Evidence Code section 352. "'Relevant evidence' means evidence . . . having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210.) Even if the proffered evidence is relevant, however, a trial judge has discretion to exclude it under Evidence Code section 352, which provides in pertinent part: "The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will . . . create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury."

Here, the evidence the prosecution sought to admit concerning the guidelines was relevant and probative of defendant's credibility and intent. Defendant told Miller he possessed the scales "to make sure that he was in compliance

with the guidelines." Insofar as the guideline amount for processed/dried marijuana is eight ounces and defendant possessed over 12 pounds, this evidence was relevant regarding defendant's lack of credibility and undercut his defense that he possessed the marijuana found in his home for personal use and not for sale. Moreover, evidence that Miller and Rudd initially intended to bring defendant "back into compliance," as was their custom and practice when the amount of marijuana exceeded the guideline amounts, tended to support the prosecution's argument that the officers were not biased against defendant simply because he possessed and used marijuana. To the contrary, this evidence arguably demonstrated that the officers did not consider defendant's possession of over eight ounces alone as evidence the marijuana was possessed for sale.

Defendant argues the challenged testimony "permitted the jury to apply the guideline amount in deciding whether [defendant's] possession was legal instead of making its own independent determination of reasonableness" and "strongly suggested that any amount over eight ounces was necessarily a violation of the law." The trial court directly addressed any such possibility when it admonished the jury that the guidelines are not necessarily the law and that they were not "to think that just because [Miller] discussed some kind of guidelines with [defendant] that that in any way defines what the law is with respect to compassionate use of marijuana."

On this record, the trial court did not abuse its discretion in admitting testimony concerning the guideline amounts.

C. Finally, even if it could be claimed it was error to admit the challenged testimony, such error was harmless. The trial court twice admonished the jury that the guidelines were not necessarily the law and stated that it would later instruct the jury on the law. When it later instructed the jury on the compassionate use defense, it correctly instructed the jury in language of CALCRIM Nos. 2370 and 2375 that "[t]he amount of marijuana possessed must be reasonably related to the patient's current, medical needs." (See *People v. Trippet, supra,* 56 Cal.App.4th at p. 1549 ["The rule should be that the quantity possessed by the patient or the primary caregiver, and the form and manner in which it is possessed, should be reasonably related to the patient's current medical needs."].) We presume the jury followed the trial court's admonition and instructions. (*People v. Romo* (1975) 14 Cal.3d 189, 195.)

Moreover, the prosecutor never argued that the amount of marijuana defendant possessed and cultivated was not reasonably related to his medical needs because he had more than the guidelines said he could have. On the other hand, Conrad, defendant's counsel, and defendant's wife's counsel each advised the jury that the guidelines were not the law, they were merely a threshold; that the amount of marijuana possessed must be reasonably related to the patient's medical needs; and that the

marijuana possessed by defendant and his wife was reasonably related to their medical needs.

On this record, we conclude that even if it could be argued it was error to admit the challenged testimony, any such error was harmless under any standard.

II

Defendant next asserts the court's refusal to instruct the jury that the guidelines were not the law violated his rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

After the jury was instructed and the parties had concluded their closing arguments, *defendant's wife* objected to the court's failure "to give a verbal instruction . . . that the guidelines were not law . . . ." In overruling the objection, the court explained that it "deliberately did not give that instruction because . . . [to do so] would give it undue emphasis. And I waited and listened very carefully to what both [the prosecutor] and [defense counsel] said . . . . And if [the prosecutor] had in any way suggested that the guidelines were some kind of legal principle that would bind the jurors, I would have interrupted and given that instruction, but he did not. And it was uncontested in argument. [Defendant's trial counsel] made it very clear that the guidelines weren't a legal principle upon which you decide this, and it was not contradictory. I thought that was a more effective way to take care of that problem."

As a preliminary matter, the People assert that defendant failed to preserve the issue on appeal by failing to raise the issue below. While defendant's wife objected to the court's failure to instruct the jury that the guidelines were not the law, defendant did not. "On appeal, a defendant cannot take advantage of objections made by a codefendant in the absence of a stipulation or understanding to that effect." (*People v. Cooper* (1970) 7 Cal.App.3d 200, 205.) There was no such stipulation or understanding here. Accordingly, defendant failed to preserve the issue on appeal.

Nevertheless, defendant contends the issue is not forfeited because no objection is necessary where the error affects the defendant's substantial rights. He cites Penal Code section 1259, which states in relevant part: "The appellate court may . . . review any instruction given, refused or modified, even though no objection was made thereto in the lower court, if the substantial rights of the defendant were affected thereby." "Ascertaining whether claimed instructional error affected the substantial rights of the defendant necessarily requires an examination of the merits," accordingly, we shall undertake such an examination. (*People v. Andersen* (1994) 26 Cal.App.4th 1241, 1249.) As we shall explain, there was no error.

As previously discussed, the court in essence admonished the jury that the guidelines were not the law and later properly instructed the jury on the law. We presume the jury followed the trial court's admonition and instructions. (*People v. Romo, supra,* 14 Cal.3d at p. 195.) Moreover, the prosecutor never

argued the amount of marijuana defendant possessed and cultivated was not reasonably related to his medical needs because he had more than the guidelines said he could have, and defendant's counsel told the jury the guidelines are not the law and that it was up to the jury to determine "whether the amount was a reasonable amount for their current medical needs."[9]

On this record, the trial court acted well within its discretion in deciding not to instruct the jury that the guidelines are not the law following closing arguments.

III

Defendant contends the trial court miscalculated his presentence custody credits by failing to award him two days of conduct credit pursuant to Penal Code section 4019. Defendant

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[9] Defendant relies on *People v. Phomphakdy*, *supra,* 165 Cal.App.4th at page 857, review granted Oct. 28, 2008, S166565, in support of his assertion that he was prejudiced by the admission of the challenged testimony. In that case, this court held that the defendant was prejudiced by the "application of the unconstitutional provision in the [MMPA]" where the trial court instructed the jury on the numerical limits in the MMPA, and following the instruction, the prosecutor argued there was a "'presumptive limit of eight ounces and six plants, unless there's a recommendation for more. In this case there's no recommendation for more.'" (*Id.* at p. 867.) Here, the trial court did not instruct the jury on the numerical limits, and the prosecutor did not argue (nor did the witnesses testify) that defendant's possession of over eight ounces of dried marijuana alone violated the law. Moreover, the court admonished the jury that the guidelines were not the law and properly instructed the jury on the application of the CUA. Thus, contrary to defendant's assertion, *People v. Phomphakdy, supra,* 165 Cal.App.4th at page 857, review granted Oct. 28, 2008, S166565, does not support a finding defendant was prejudiced by the admission of the challenged testimony.

was in custody for five days (from November 21 to November 25, 2006). The trial court awarded defendant five days of presentence custody credit under Penal Code section 2900.5, but it did not award defendant any conduct credit under Penal Code section 4019. The People concede defendant is entitled to two additional days of credit under Penal Code section 4019. We accept the concession and shall remand the matter for the limited purpose of amending the January 11, 2008, order to reflect that defendant was awarded seven days of presentence custody credit (five actual days and two conduct). (*People v. Dieck* (2009) 46 Cal.4th 934, 943.)

IV

Finally, defendant contends the trial court erred in failing to "separate the fees, fines, and penalties, or state the statutory bases for them," and as a result, "the $650 and $162.50 fines should be stricken." The People concede the error, but argue the matter should be remanded for the limited purpose of amending the probation order to separately state the fines, fees, and penalties, and to specify the statutory basis for each. We agree the trial court erred and shall remand the matter in the manner urged by the People.

In sentencing defendant, the trial court ordered "[t]hat he pay a fine of $650.00, which includes the penalty assessment and [c]ourt [s]ecurity fee" and "the criminal laboratory analysis fee of $162.50, which includes penalty assessments . . . ."

All fines, fees, and penalties must be stated separately at sentencing, with the statutory basis specified for each; and the

abstract of judgment -- in this case the order of probation-- must reflect these matters. (*People v. Eddards* (2008) 162 Cal.App.4th 712, 717; *People v. High* (2004) 119 Cal.App.4th 1192, 1200.) "'Although we recognize that a detailed recitation of all the fees, fines and penalties on the record may be tedious, California law does not authorize shortcuts.'" (*People v. High*, *supra*, at p. 1200.)

We shall remand the matter for the trial court to amend the probation order to delineate and state the statutory basis for the fine, penalty assessments, and fees imposed.

DISPOSITION

This matter is remanded for the limited purpose of amending the January 11, 2008, probation order to (1) delineate and state the statutory basis for all fines, penalty assessments, and fees imposed, and (2) reflect that defendant was awarded 7 days of presentence custody credit (5 actual, plus 2 conduct).

In all other respects, the judgment is affirmed.

BLEASE, J.

We concur:

SCOTLAND, P. J.

RAYE, J.